DIVORCE AND MARRIAGE IN NEW-YORK.

FEATURES AND WORKINGS OF AN INIQUITOUS SYSTEM.

HOW IT IS VIEWED BY SUCH EMINENT LAWYERS AS CHIEF JUSTICE DAVIS, F. N. BANGS. F. R. COUDERT, H. B. TURNER, D. M. PORTER AND B. F. TRACY.

An investigation of the records of the courts in New-York City having jurisdiction in divorce proceedings for the last thirteen years has disclosed the fact that there has been for five years an astonishing increase in the number of decrees of absolute divorce granted. There is only one cause for such a divorce under the statutes of the State, and the decrees, in harmony with the law, prohibit the guilty party in the case from marrying again within the life-time of the injured party. Under rulings of the Court of Appeals such marriages are valid, however, if contracted in other States, and it has been discovered that in many cases persons have contrived to have decrees entered against them in order that they might re-marry. Other causes have operated under the prevailing system to increase the number of absolute divorces and disgraceful marriages, chief among them being the secrecy with which trials are conducted.

These facts have caused consternation and alarm among persons who are brought frequently face to face with the law and its results. To obtain the views of men learned in the laws and interested in the preservation of social morality, The Tribune has sent its reporters to eminent judges and lawyers, with instructions to obtain from them their judgments on the workings of the present law as laid down in the statutes and construed by the bighest tribunal of the State. The result of these inquiries and the discoveries of the records and law books are given in the appended articles. Beginning with Chief-Justice Davis, these men, with hardly an exception, speak severe criticism against the law and recommend a reform. The views of Chief-Justice Davis, a brother judge, Francis N. Bangs, Frederic R. Coudert, Herbert B. Turner, D. M. Porter and Benjamin F. Tracy are given

THE LAW AND ITS RESULTS.

GREAT INCREASE IN NUMBER OF DE-CREES-FEATURES OF DIVORCE LAWS.

Of late there has been a startling increase in the number of divorces granted in the the courts of New-York City. As many decrees of divorce have been entered in the offices of the three courts that have jurisdiction in such cases during the last five years as in the preceding eight. In each case the number was about 1,400. Especially has the increase been startling since the summer of 1881. The total number in 1880 was 218; in 1881 it was 253; in 1882 it was 316; and the number of decrees already entered up to September of this year is 215. Inasmuch as the number of applications during the summer vacation was extraordinarily large, and the most of these are still before referees or untried, the entire number for this year promises to foot up more than 400-or about twice as many as were ever granted in any year preceding 1879. Following is a tabulated statement of the number of dicourts-the Suprems, Superior and Common Pleasfrom 1870 to September 1, 1883, with the totals for each year:

Years,	1870	1871	1872	1873	1874	1875	1876	1877
Supreme, Superior Com. Pleas	109 70 33	80 70 44	77 47 65	85 27 77	122 26 65	96 27 43	79 14 54	100 26 38
Total	212	194	179	180	213	166	147	164
Years	1878	1879	1880	1881	1882	1883 to Sept. 1.		
Supreme Superior Com. Pleas	92 16 37	160 14 49	178 8 32	192 28 38	252 31 38	174 26 15		
Total	145	223	218	258	316	215		

ONE CAUSE OF THE

The apparent causes for this increase are several. Doubtless one of the most marked is the comparatively recent decisions of the Court of Appeals of this State, which practically remove all restraint upon the subsequent marriage of persons against whom decrees of divorce have been granted for their acts of infidelity. The case of Van Voorbis vs. Brintnall was argued in the Court of Appeals in March, 1881, and was decided in October of that year The General Term in the Second District had held in that case (as had the General Term in this city in the case of Marshall vs. Marshall, and the General Term of the Superior Court in Thorp vs. Thorp, and as had most of the judges of the State before whom the question had come at Trial Term) that a person against whom a decree of absolute divorce had been granted could not anywhere contract a marriage that would be recognized as valid in this State during the lifetime of the person who obtained the decree. The question came before the Court of Appeals for the first time in the Van Voorhis case. The appellate court reversed the holdings of the courts below, and held that a marriage valid in the place where contracted must be considered walld here, notwithstanding any provision in the statutes of this State declaring that no such divorced person could marry during the husband's or wife's lifetime. This proposition was reaffirmed and strengthened by the decision of the same con last year in the case of Thorp vs. Thorp. The practical effect of this decision is that a person diverced for his own misconduct to-day can tomorrow step over into New-Jersey or Connecticut where there is no such restriction, and there marry the woman whom he takes with him for the purpose; when he returns to this State, its courts are bound to hold that this marriage, which the State law and the decree of the court had forbidden him to make, is valid, and that the offspring of it are legitimate. The Court of Appeals sustains this apparent inconsistency on the broad principle that no law can be so extended in its effect as to have an 'extra-territorial" force unless its provisions, in terms, distinctly prescribe that it is to have such effect. But the court intimates that a law might be framed, analogous to the one to prevent duelling, that would follow the guilty divorced party out of the State and on his return to this State with his new wife.

The obvious effect of these decisions has followed Before 1881 the severity of the diverce laws had been so firmly maintained in this State that there were few countries in Europe and scarcely any States in America where the marriage tie could not be more easily broken. But for unprincipled married persons who wish to be free from their present domestic alliances all restraint except that of public sentiment is now practically removed. A man or woman of this description can commit a flagrant act of infidelity that will be brought to the knowledge of the husband or wife, as the case may be, who will thus be forced into seeking the redress which the offending party is anxious should be obtained. When the facts are laid before the court the judge is bound to grant the divorce-there is no collusion apparent and the guilt is plain. As soon as the decree is signed the guilty individual can ride in an hour or less into another State with another, and marry, and the new consort will occupy the same position in the eyes of the law as did the innocent one who has thus been wronged. Then when the new tie becomes irksome the same operation may be repeated, and so on ad infinitum.

SECRET TRIALS AND DETECTIVES' EVIDENCE. Another source of divorce multiplication, and one that existed quite as actively before the Van Voorhis decision, is the secrecy with which decrees are obtained. This springs from the idea in the minds of many judges that the divulging of the prurient details of domestic trouble and marital infidelity before those who crowd into court-rooms to listen to such tales would have a demoralizing effect. This idea, too, is strengthened by the wish of lawyers to keep the facts in regard to their clients cases away from public knowledge. Therefore the most of such causes are tried in the secluded offices of lawyers expointed as referees, and neither the public nor newspaper reporters know of the time or place of such hearings. Moreover, the judges make the most stringent rules, which are binding upon the clerks, forbidding them to allow the evidence in divorce cases filed with them to be made public. The uncorpulous lawyers, therefore who advertise that cases filed with them to be made public. The unscruptions lawyers, therefore, who advertise that they will obtain "divorces without publicity," are generally able to make good their promises in that respect. The same men have other mathods to aid them in their discreditable work. Chief, and one of the worst, among these is the detective system. No home is safe from its invasion. Give to a certain class of detectives, who carry on their business in this city, a statement of the facts which it is desired shall be proven before a referee as to almost any individual in the community, and give them, also, the big fees which they will demand, and the testimony will be forthcoming.

Little, if any, of the blame can be laid upon the shoulders of the referee. In the most dangerons classes of cases—either those where the divorce is sought without the knowledge of, or service being made upon, the defendant, or where there is collusion—there is no one to cross-examine witnesses or to make any investigation of the truth of state-

or to make any investigation of the truth of state-ments made by them. The detectives may, there-fore, tell almost any story with impunity. The referse can do little more than record the evidence and pass upon the question whether it furnishes

sufficient proofs of the facts alleged; and if it does,

sufficient proofs of the facts alleged; and if it does, to find for the plaintiff.

The question of "service" is a serious matter; and although the courts are stringent in the proof they require on this subject, the requirements are irequently evaded. A woman came into the Clerk's office of the Superior Court a few days ago, and said, with some perturbation, that she lived in New-Jersey, and had not seen her husband for a long time; but that she had just learned that a divorce had been grauted to him in that court, although no notice of the suit had ever come to her knowledge during its progress. A clerk locked up the records, and there, truly enough, was the entry of the decree made several months previous. This is only one illustration of the many instances where service is made "by publication," and the defendant remains entirely ignorant of the proceedings until they are ended. Referees may scrutinize the testimony upon the question of service, and judges may re-examine it with the greatest eare without picking any flaw in what is often a tissue of fraud. So flagrant have these cases been at times that one of the Justices of the Supreme Court has been driven to suggest as a remedy that the judges themselves, in instances where they have reason to subpect chicancry, should have power to send out detectives of their own choosing to investigate the matter. It is sometimes said that the fact that the nayment of the fees of a referce will often depend moon his favorable decision in an uncontested divorce case has its weight with him in making his report; but it may fairly be answered that the character of the men who ordinarily are selected as referees places them above the suspicion of such a reproach.

LACK OF UNIFORMITY IN DIVORCE LAWS.

LACK OF UNIFORMITY IN DIVORCE LAWS. Another of the universally recognized sources of evils of this character arises from the great diversity of divorce laws in the various States. The variety is almost as great as the number of States; the scale runs, on the one hand, from the laws of such States as North Carolina and Texas, where a wife cannot obtain a divorce for a clearly proven act of infidelity on the part of her husband, but where she must prove that he has been "living in adultery," to the laws of such a State as Indiana, where, until recently, the courts might grant divorces where they deemed it "reasonade and proper," or in Maine, where the matter is still left to the discretion of the court. In New-Jersey and Maryland adultery and desertion are the only causes for absolute divorce arising subsequent to marriage. In California, Colorado, Florida, Kansas, Missouri and Wisconsin, "voluntary separation with intent to desert," continued for one year, is ground for absolute divorce. In seven other States the time is two years; in thirieen others it is three years. In Lousiana, Rhode Island and Virginia it is five years. In New-York and several other States desertion is ground for partial davorce only, and in North Carolina and Pennsylvania it is not the basis of any as North Carolina and Texas, where a wife cannot

ground for partial davorce only, and in North Carolina and Pennsylvania it is not the basis of any
kind of divorce. In Tennessee a divorce may be
granted to a man from a wife who has refused to
move to that State with him.

There is equal variance on the question of cruelty
as a cause for divorce. In Alabama and Kentucky
this right exists only in favor of the wife. In
Florida the "habitual exercise of a viocent and ungovernable temper" is sufficient cause. In thirty
of the States a person is freed from union with a
husband or wife convicted of a felony. In seven of
the States habitual drenkenness continued for one
year is good cause; in Himox and Oregon it is two busband or wife convicted of a felony. In seven of
the States habitual dransenness continued for one
year is good cause; in Illimois and Oregon it is two
years; in New-Hampshire and Ohio it is three,
Refusal to provide for a wife is made ground for
divorce, either partial or absolute, in several States,
Insanity existing at the time of the marriage is
ground for annulment in most of them. In Kentucky the issue of a marriage dissolved for mental
incapacity are legitimate; in Rhode Island they are
illegitimate. A wife may obtain a divorce
in Missouri on the ground that her husband
is a "vagrant." From 1849 to 1878 the courts of
Connectiont were empowered by statute to grant
divorces for "any misconduct permanently destroying the happiness of the pertitioner and defeating
the purposes of marriage." In Rhode Island, Maine Kentucky the law is scarcely more definite South Carolina is the only State in the Un tay. South Caronna is the only state in a Chiova where a divorce cannot be obtained for any cause in 1878 the Legislature repealed all acts and part of acts relating to divorce. There are few State besides New-York where the reference system is anthorized. In Georgia ne absolute divorce can h granted except upon the verdicis of two special juries. In Kentucky "a jury shall not be empan-elled in any action for divorce, alimony or main-

tenance."

Among the laws regulating marriage several of the States forbid alliances between persons of different race or color. Such laws have appeared at various times upon the statute-books of seventeen of the States. Many of the States also reguteen of the States. Many of the States also regulate the age at which persons may marry. In New-York there is one statutory provision to vary the common law requirement that the parties be respectively fourteen and twelve years of age, except the enactment that if a woman marry under the age of fourteen years without the consent of father, mother or guardian such marriage is voudable. A number of the States fix various other ages. There are several other grounds for the annulment of a marriage in New-York, but an absolute divorce can be granted only on the ground of adultery. A partial divorce or a "separation" may be granted for cruel or inhuman treatment; such conduct on the part of the offending party as renders it unsafe and part of the effending party as renders it unsafe and improper for the other to live with him or her; abandonment, and, where the wife is plaintiff, neglect or refusal of the husband to provide for

This difference between the laws of the various States leads to endless complications, particularly arising where married persons before or after divorce move from one State into another; or where divorce move from one State into another; or where they change their places of residence to evade some laws or to seek the privileges accorded by others. A prominent lawyer of this city is now suing for divorce in Connecticut, for reasons which would not enable him to secure one here. He took a summer home in one of its pleasant towns, and so acquired a "residence" there while he was coming every day to his business in New-York. There is upon the calendar of the Supreme Court, Special Term, the case of a woman who is suing for divorce from her husband, who is in receipt of a large income, but who has kept out of this State to avoid being obliged to support her or pay her alimony. A few months ago he rented a house in Providence, R. I., and then began a suit against his wife for divorce, making the "service" upon her by publication. The consequence was that she had no tion. The consequence was that she had no knowledge of the proceedings until they were completed, and only learned of them recently by accident.

REMEDIES THAT ARE SUGGESTED.

The remedies proposed for the existing divorce buses and evils are several. It is strongly urged that the most immediate necessity in this State is the passage of a law that would meet the requir ments suggested by the Court of Appeals in the Va Voorhis case; that is, a law that would explicitly make it unlawful for a guilty givorced person to make it unlawful for a guilty divorced person to marry outside this State as well as within its limits, Some think also that such an act should be made a criminal offence, punishable by heavy penalties. A law analogous to the former one is in force in Massachusetts and has been upheld by the courts of that State as effective. Another remedy proposed is that all cases should be tried in open court in order that the publicity given to the open court in order that the publicity given to the facts might restrain persons from hastily beginning such proceedings as well as afford a better opportunity to scrutinize suspicious testimony. It is also urged that greater efforts should be made by such an organization as the New-York Bar Association to bring to punishment and to disbar such members of the legal profession as are detected in fraudulent or disreputable practices in obtaining divorces for or disreputable practices in obtaining divorces for their clients. But it is admitted on all sides that these are

temperary expedients which may relieve teradicating the evil, and that the genuine remedy can only come through an amendment to the Constitution of the United States, permitting the passage by Congress of a divorce law to be uni-form throughout the Union.

THE EVILS OF THE SYSTEM EXPOSED.

CHIEF-JUSTICE DAVIS ON "DIVORCES MADE EASY."

Chief-Justice Davis said, on the general subject being presented by a TRIBUNE reporter: "In answering your inquiries I intend to speak only of only upon the presentation of a subject by one of absolute diverces from the bonds of matrimony | to own members."

The want of uniformity in the divorce laws of the several States is a serious and growing evil, dis graceful to the civilization and intelligence of our country and sadly injurious to its morality. There is but one effectual remedy for this evil, and that is by so amending the Constitution of the United States as to confer power on Congress to enact uniform laws on the subject of such divorces, to operate equally in all the States and Territories. There are that has some influence on the ratio of divorces." abundant reasons for this change growing out of the constant interchange of population caused by our widespread facilities of travel; the effect of divorce laws upon the status of children; the incessant frauds practised in resorting to distant States for the purpose of obtaining divorces without the knowledge of innocent parties; the invalidity of such divorces in other States, and their validity where obtained, so that the same person may have wives or husbands in different States legitimate in one and illegitumate in the other, producing painful questions touching the legitimacy of children, affecting the right of inheritance or succession of innocent offspring, in lands and other property, and the rights of dower of injured women.

"These are but samples of the many reasons that make our laws of divorce matters of National importance Now, Congress has no power to touch the subject in the several States. The in sertion of a single word in the section enumerating the powers of Congress would lead to a most valuable reform. In our own State absolute divorce is limited to a single ground. But there is a shocking lack of safeguards in administering and enforcing the law. The offending party is forbidden by statute and by the judgment of divorce from remarrying during the lifetime of the injured party except under certain prescribed circumstances. To remarry within the State is a felony punishable by State Prison. It has just been adjudged to be bigamy by the Court of Appeals, Yet a criminal party so divorced can immediately resort to another State or country and there marry the person with whom the offence was committed and at once return to this State in lawful wedlock. This also has just been adjudged by the same court, and is now the law even in a case where it is shown that the parties left the State for the sole purpose of marrying and immediately returned here to reside. This condition of the law is monstrous. It should be made a crime to go out of the State with such an intent or to return to it after the intent is consummated. The ease with which

the intent is consummated. The ease with which this abuse is now committed renders all the restraint of our statutes and judgments a mere fare.

"The total abolition of such restraints would be offering a premium on divorce. Leave to both parties to remary instantly would in many instances promote adultery for the mere purpose of speedy marriage with another. This would tant the morality of necographs marriages more deeply than now. The Legislature has lately changed the law by all-wing the guilty party to remarry after five years by consent of the court on showing that his conduct has been uniformly good since the divorce. Since a divorced New-Yorker can be lawfully married in Jersey City instantly after his

his conduct has been uniformly good since the divorce. Since a divorced New-Yorker can be law-fully married in Jersey City instantly after his divorce on the shore end of a New-Jersey ferry bout and return in lawful wellock on the same bout, he will hardly put his right to remarry to the test of his own good conduct for five years.

"But a greater evil than this grows but of the frauds and misconduct of the persons kn-wn as divorce lawyers. These wretches are supposed to be members of the lar. They hold thomselves out to the public as such, but in a leases in which they have been summoned to show cause why they should not be disbarred it has turned out that they are not members of the bar and of course not subjects for disbarment. The law should make the advertising of divorces made easy by such reacals or by any one a highering. For the most part their prefended divorces are obtained in other States. They are careful not to appear in our courts. Sometimes the judgments they profess to obtain from other courts are wholly forgeries, and sometimes real judgments are got by faise personations or other frauds and perjuties. Great care is taken to evide our general criminal laws. What is needed is a special enactment to punish every step, from the initiatory accertisement for business to the termination of the prelended divorce, as a felony. Sometimes the courts have been incantions in proceedings for divorce and have been deceved, our of life vears great pans have been taken to prevent frands and to permit judgments only in clearly proven cases.

"But the courts cannot make law: they can only

proven cases.

"But the courts cannot make law: they can only "But the courts cannot make law: they can only declars and administer it as they find it to exist. The remedy is with our State Legislature, or, what would be still better, with the people of the whole country, who say take measures to have uniform laws enacted by Congress to relieve themselves from the evil of conflicting State laws relating to absolute divorces, and thus restrain the flood of immoralities which are degrading and sensibly impairing the accordings of the marriage relation on ing the sacredness of the marriage relation, on which so largely rests the good order of society."

A JUSTICE'S REMEDY.

HE WILL NOT DIVORCE PERONS MARKIED IN ANOTHER STATE.

One of the Justices of the Supreme Court, who is energetic in the prosecution of judicial work as he is careful in the examination of divorce testineny, said on Friday that he would not sign any decree of divorce where the marriage of the parties was made in another State. "No matter what the Code provides," he said, " I will not grant a divorce in such a case. If they want it they must go to some other judge. The marriage was a contract made in another State, and I think that that State ought to be asked to pass upon the contracts made inder its own laws. Let the person who wishes the divorce go into the State where he married and tive there until he has got his diverce. If such was the rule in this State the number of divorces would be much smaller than it is at present. Then there should be a stringent law to prevent a divorced person marrying in another State, as Van Voorhis and Thorp did. There would be no more difficulty in enacting a valid law of this kind that would have an extra-territor al effect than in passing and executing the law which punishes a man who goes out of this State to fight a duel and then returns. No: it could not be held to be in conflict with that provision of the Federal Constitution which forbids a State to pass a law impairing the obligation of contracts. That, of course, covers only such contracts as might already have been indae when the

tracts as might already have been indae when the law was passed; and it could not prevent a State from passing a law which would make illegal such marriages contracted in the future."

"What do you think would be the effect of trying divorce cases in open court?" the Judge was asked,

"It would be very good," he answered; "very good. People generally would be a good deal slower to seek divorce remedies if they knew that their affairs would thus be made public. Nor would there have difficulty about the indees taking care of affairs would thus be made public. Nor would there be any difficulty about the judges taking care of the cases. With the addition of the new judges who will come to the Supreme Court beach next year, and the return of the additional Superior Fourt and Common Pleas judges to their own courts, we should have a sufficient force easily to dispose of all divorce cases. But then, in the Judge concluded "we have got sometime or other to come concluded, " we have got semetime or of to a constitutional amendment which w a uniform divorce law in all the States; and the sooner that can be done the better. If the newspapers will keep on agitating the matter we shall accomplish that at the same time that the number of divorces is being decreased."

A NEED OF WISE MARRIAGE LAWS. FRANCIS N. BANG'S OPINIONS.

The following conversation took place between Francis N. Bangs, president of the Bar Association,

and a TRIBUNE reporter ; "Is it probable," asked the reporter, "that the Bar Association will soon take some action to put down the disreputable practices of so-called divorce lawyers' f'

"I cannot tell what the probable action of the Bar Association will be," replied Mr. Bangs, "except that it will be in the direction of eradicating abuses and preventing frauds in courts of justice. The charter of the Bar Association describes its purpose to be that of maintaining the honor and dignity of the law and increasing its usefulness in promoting the due administration of justice, and in aid of this purpose it has frequently at its own expense carried on proceedings against disreputable lawyers, and has given its aid to the courts whenever asked. But there is no provision of its constitution making it the duty of the Association, or a specific part of its purpose, to proceed against others than its own members, and, therefore, whether it will choose to do so or not depends upon the circumstances of the particular case and the flagrancy of the misconduct. So far as I know, no instances of persistent misconduct in the management of divorce proceedings have been brought to the attention of the Association by any member of it, although such instances have been mentioned in the newspapers; but the Association will act

"Do you consider that the ratio of divorces to marriages in this State has increased since the Van-

Voorhis decision ?" "I have not informed myself upon the statistics of that business. It has been a harder world to live in, in some respects, within the last two years, and I should not be surprised if some people felt the burden of life more than they used to, and I suppose

"Do you think it possible for the State to pass a law the effect of which would be to render marriages contracted outside the State, by citizens prohibited from marrying, invalid in this State?"

"I cannot see any reason why the Legislature of

this State cannot prohibit its courts from recognizing such marriages, and at present no constitutional objection occurs to me. The courts have been in the habit of inserting in their decrees a provision prohibiting the divorced party from being married again, although I do not know by what authority that is incorporated in the decree any more than there is authority for defining in every decree the legal consequences or effect of that decree. It would em as if it was intended by the lawmakers that that should prevent a person divorced for the specified couse from marrying again anywhere. And yet, after much conflict of opinion, it seems to have scome settled that the provision does not apply to second marriage out of this State. The marriage relation results from contract. How far any State will enforce or even recognize the obligaion of a contract made out of this State affecting the domestic relations of its citizens is a political mestion, it seems to me, for the authorities of this State to determine. As to any amendment of the aws, bearing upon the relation of husband and wife, I think the laws regulating the making of the marriage contract require more revision that the laws regulating the dissolution of that contract. If the relation of husband and wife can be said to exist at all after the legislation of late years, and after an English court, under a statutory system similar to our own, has actually granted to a wife an injunction against her husband's visiting her at her house, on the ground that as owner she has rights to which the duty of a wife is subordinate, why, then the creation of that relation ought to be as well authenticated and certified as the admission of a student into a law office to study law, or the binding of a child to an apprenticeship, or the making of a contract for the purchase of goods of the alue of more than \$50.

"Do you think the evidence in divorce cases hould be more carefully examined than at present? That depends upon the care with which it is ow examined. I do not believe that the judges are wanting in care in such cases. On the contrary, I think the most scrupulous care is shown, for in that espect the reports of current decisions contain the nost convincing evidence that no divorce cases are permitted to pass a judge without the scrupulous erntiny of evidence."

"Do you think it advisable to take the testimony n open court instead of before a referce ?"

"I do not see any good to be gained by that. People swear falsely in open court as often as they do in shut court. The only beneficial effect of trying a divorce case in open court would be that it would attract publicity, and if collasion between the parties or fraud upon the public occurred it might sooner come to light. But that would not be true of all cases, and that beneficial effect would be more than counterbalanced by the injury resulting from the public disclosure of and amplification upon acts d lewdness and infidelity, while the courts would become like some of the street corners in New-York, places that by their lewil exhibitions stimulate vithout gratifying desire."

" May I understand, then, that you consider no change in the divorce laws as absolutely neces

"If you ask whether it is urgently necessary in the interest of the community, I am not prepared to say, though my impression is that it would be as much for the public benefit to repudiate marriage by a diversed person contacted out of the State as r the public interest to prohibit such a mar within the State. If public policy requires person divorce; for certain causes should no rrage within the State. If public policy requishat a person divorced for certain causes should be married again, the reason of the policy does cease because the second marriage takes place of the State, and if that is to be the policy of State the heretofore expressed intention of gislature in that respect is not consummated un-sisters is some amendment to the law."

What do you teel disposed to say on the question youd its legal aspect?"

beyond its legal aspect?"

"I will say as a citizen that the provision of law prohibiting the remarriage of a divorced person ought for consistency's sake to be made to apoly to marriages out of the State as well as to marriages within it. Whether that enactment should have been made in the statute originally is a question I have not considered. It does not better the remedy of the aggreeved party, and the tendency of Livide. have not considered. It does not better the remedy of the aggrieved party, and the tendency of legisla-tion is to have as few persons as possible laboring under disabilities. It has been considered that the state of a hopeless debtor is a very foriori one, and the law provides for relieving him. A hopeless man in any respect, a man who can never hope to enjoy domestic life nor mercantile credit, is not only an object of piny out he soon becomes an incumbrance, fit only to die, and often wisning for no different destiny. A man beyond the reach of pardon scarcely exists; and public policy requires that no man shall be beyond the reach of pardon. An unfaithful husband may be said to be worthy of distrust; it might be said that the law ought to interfere to prevent women from putting condectee in hea again. But had not women in that respect as well be left to the protection farofshad by their own delicacy? Does not the law nudertake too much when it assumes to protect an individual against the ordinary vicessitudes of hief Viewed in the light of a penalty and not as a security to women, the statutory provision seems a fearful penalty, unpardonable and irremodiable by any act of grace. But if the act of a divorced man in marrying again is a crime, it ought to be a crime. act of grace. But if the act of a divorced man harrying again is a crime, it ought to be a crime ever committed. It ought not to be a crime in kland County, N. Y., and no crime in Hacken-N. J.; it ought not to be a crime in Hudson uty in this State, and no crime in Berkshire arts Mars.

LAXITY OF THE LAW CONDEMNED. FREDERIC R. COUDERT CITES CLASSICAL INSTANCES.

Frederic R. Condert was asked whether in view of the frequency with which prohibitory decrees are avoided by the marriage of divorced persons outside the State he did not think some change in the law desirable. "Certainly," he answered, "for as the law now stands some of the results of its application are almost grotesque. If a divorced man, disregarding the prohibition in the decree of divorce, remarties in this State he commits a heinous offence, he is guilty of contempt of court and of bigamy besides. If, however, he can spare the time and is willing to go to the trifling expense of a visit to Connecticut or New-Jersey, his marriage is valid, our criminal statutes cannot interfere with him, and his progeny are legitimate. Of course, this is an absurdity upon its face. Our Court of Appeals in a recent case has held that a divorced husband marrying in this State is guilty of bigamy. For all practical purposes except going to State Prison be was a single man, with all the disadvantages and none of the benefits which that condition usually implies. I do not wish to be understood as intimating the slightest criticism on the decision of the Court. The statute makes the mischief ; the Court was bound to take it and construe it without reference to its consequences." " Do you think open trials and the abolishment of

the referee system would serve a good purpose f' "I do not think the referee system is at all objectionable, and I do see very grave objections to trying such cases before the public. Although under our present system a court may sit with closed doors, this is seldom done, while the prurient details generally elicited seem to have a peculiar attraction for idle persons, who appear to derive considerable entertainment from these gratuitous performances. Before a referee persons who require the assistance of a court to investigate their domestic relations may do so with comparative privacy. To use a trite expression, they can 'wash their soiled linen in private."

"Do you think the number of lawyers guilty of disreputable methods of securing divorces is increasing f"

"I do not think they are increasing in greater ratio than the increase in the general number of the profession. In view of the facility of admission to the bar, the enormous amount of business done, the number of marriages and the proportion of discontented couples, I think the number of lawyers guilty of the methods alleged is very small."

"What means would you suggest for their sup-

"That is, to a certain extent, in the hands of the

courts. It is much easier to make charges of irregularity against lawyers than to prove that those charges are true. It is difficult for the Bar Association to take any action that will be effectual. Those accused of such practices are not members of our association, and therefore the discipline of that body cannot be exercised."

"Cannot something be done to lessen the growing evils of manufactured evidence ?"

evils of manufactured evidence?"

"I have grave doubts as to whother there is any such growth. I do not believe that lying and perjury are any more common than they have heretofore been. Our laws ought to be sufficient to punish the abuses to which you refer. You ought to remember, too, that the lying is chiefly done by laymen and lay women, who not unfrequently deceive their counsel before deceiving the Court."

"Do you think the evidence is, as a rule, scanned closely enush and its genuineness established?"

closely enough and its genuineness established? "I think the evidence is in general sufficient and the facts sufficiently established. A proper and competent referee will be extremely careful to see that the evidence warrants the judgment he is called upon to render. The burden must be upon the courts to appoint no man unsuited by his char-acter and abilities to render so important a decision as the one which disrupts the matrimonial tie and

subverts the family relations."

"Do you consider the statute prohibiting the

"Do you consider the statute prohibiting the marriage of persons against whom a decree of divorce has been obtained beneficial to the community or the reverse?"

"That is a peculiar question and one of mixed morals, expediency and law. My own belief is that it would be much better absolutely to prohibit the remarriage of divorced persons than to allow divorces for slight causes and remarriage thereafter. At our present ratio of facile separations from the ties of marriage, we are likely to reach the condition of things which existed under the Roman republic in its corrupt days, in the time of Juvenal, for instance, who speaks of a lady who had eight husbands in the course of five autumns. Martial goes further and mentions the case of a matron who had had ten nusbands in one month. St. Jerome declares that he saw a husband bury his twenty-first wife, who had hersell had twenty-two husbands." wife, who had herself had twenty-two husbands."

"Do you consider the decision in the case of VanVoorhisvs. Brintnall has exercised any influence in multiplying the number of divorces annually applied for?"

No, I do not. Persons addicted to divorce and re-"No, I do not. Persons addicted to divorce and remarriage understood better, apparently, than many lawyers the real condition of our law, and were quite willing to submit to the inconvenience of a trip to Jersey City or Hoboken in order to insure the regularity of their domestic life and of their children's status. The slight element of irregularity attending the operation may have given it additional zest. The sum and substance of the matter is that the laws regulating marriage and divorce are loose and uncortain in the extreme. While marriage is the most sacred and important of contracts, it is the easiest tenter into. The law is very solicitons to prevent frauds where the sale of a horse or of a hale of go ds is concerned, but a gidly boy and a foolish girl may plunge into matof a horse or of a bale of goods is concerned, but a guidy boy and a foolish girl may prinne into matrimony long before they are able to understand the responsibilities and duties which that relation implies. If marriages were contracted with more deliberation they would be dissolved with less frequency. The absence of any religious sanction to the validity of marriage is to some extent the cause of the trouble, but even if the union of a man and woman presumably for life be a matter purely of civil concern, it is of inestimable imperiance that the law should not hold out temptations to and avenues of escape from its obligations." avenues of escape from its obligations."

A GENERAL READJUSTMENT NEEDED

STATE LAWS SHOULD BE UNIFORM-H. B. TURNER SPEAKS.

Herbert B. Turner, of the firm of Turner, Lee & McClure, was seen by a TRIBUNE reporter. "It seems to me," said Mr. Turner, "that the whole law of divorce needs readjustment, tending in the direction of uniformity between the various States, and I think matters are tending in that direction already. The well-known case of the People vs. Baker was the last straw which broke the camel's back. In that case the defendant married a woman and resided in this State. His wife oft him, or he left her, and she obtained an Ohio divorce on the ground of desertion, as she was a resident of that State. The husband did not appear and service was made by publication. Some years afterward, thinking he was a free man, he married again, and was presecuted for bigamy, found guilty and sentenced. The grounds of the decision were that as he had not appeared in Ohio, either personally or by counsel, the decree of divorce, though valid in Ohio, was invalid in New-York. Thus he was an unmarried man in one State and a married man in the other. Surely this is a strange anomaly."

" Do you think the Legislature could enact a law rendering the marriage in another State of a man disabled from marrying in this State invalid in the New-York courts ?" "I hardly think so. It is a principle of law that a

narriage valid where it is contracted is valid every-

where unless it be of a nature considered incestnous in one State or country though legal in another. It has been decided, too, that the decree refusing permission to remarry is to be considered merely as a prohibitive measure.

"Are you in favor of this prohibition?"

"No, I do not think it is altogether advisable.

munity should be prevented by law from marrying. What has to be guarded against, however, is the fact that a man may commit adultery for the sake of having a divorce obtained against him and thus care in granting decrees."

"Do you think that care is now exercised?"

"Yes, I do. I think the Judges are admit

"Yes, I do. I think the Judges are admirably scrupnious in examining all evidence submitted to

them."

"Are you in favor of holding divorce proceedings

"I think the present referee system an excellent one. The evidence of detectives is never admitted without corroboration from other sources, and the greatest care is taken to prove actual service."

"Do you think the Bar Association ought to take "To you think the par Association ought to tase steps to punish disreputable divorce practitioners?"

"It is no use denying that great evils do exist and that there are rascals in the legal as well as in other professions, but evidence sufficient to disbar a man has to be so overwhelming that it is almost impossi-ted by the projective of cases. Resides, the ole to secure it in the majority of cases. association is bound only to proceed against its own members, and I do not think any of these gentry are included on our list of members."

What is your personal opinion as to the prohibitive decree?'
"I do not think it answers any useful end.
Reform, if reform is needed, should be in the
direction of securing uniform State laws as to marriage and divorce.

RELIEF BY CRIMINAL LAW.

D. M. PORTER ON THE LAW OF MASSA-CHUSETTS.

D. M. Porter, who was one of the counsel for the successful parties in both the Van Voorhis and Thorp cases, said in answer to inquiries of a TRIB-UNE reporter that he had had only four cases distinctively for divorce in thirty years, and therefore was not very familiar with the subject. On the question involved in the Van Voorhis case, however, he said: "I think the best law to meet the lifficulties suggested by the Court of Appeals would be the same one that was passed in Massa chusetts more than twenty-five years ago. It forbade a divorced person to contract another marriage, either within the State or anywhere else, during the lifetime of the innocent person. That has been sustained by the highest appellate court of the State which has held atbat such a marriage is invalid and the children thereof are illegitimate. But no such case has ever been carried to the United States Supreme Court; and I believe if it were that it would be held to be unconstitutional. That is, marriage is a civil contract; now, if a divorced person coming from Massachusetts should marry in a State where such contract was valid, the law of Massachusetts that upon his return should declare that contract vold would be 'impairing the obligation of a contract' in direct violation of the Constitution of the United States. It never has been so decided because it never has been carried to the United States Supreme Court, but I think that would be the result if tested. The only way out of that difficults, I think, is for the Legislature to pass a law making it a criminal offence But no such case has ever been carried to the hature to pass a law making it a criminal offence with severe penalties for a divorced person to marry noner such circumstances; and then see that that law was executed " Ought not the divorce laws to be made uniform

"Unquestionably; and that is to be the final sclution of the problem,"

AN OBSERVATION BY B. F. TRACY.

General Benjamin F. Tracy, ex-Judge of the New York Court of Appeals, said: "I do not wish to speak on the subject of divorce laws for publication, but it is deplorable that uniformity has not been secured among the States in this matter. It would not do to have National legislation on the subject, because that would amount to a revolution, and I cannot give any plan by which the States might come together. I was not a Judge of the Court of Appeals when the decision was given in the case of Van Voorhis vs. Brintnall, but I believe that decision to be a correct exposition of our statute." would not do to have National legislation on the

VITA NOVA.

There is, I think, a shallowness in grief,
A bottom depth that one may touch at will,
For in its inability to kill
It loiters with us like a vulgar thief,
Who steals what beat he may. At first bolief,
Then those illusions that we cherish still
As tokes from Then those illusions that we cherish still Are taken from us one by one, until The booty measures all we held in fief. But whose reads the lesson that the years Show clear and true to our rejuctant eyes, Finds sorrow surely none too dearly bought; Divested of the appanage of tears. He sees the world is his, a virgin crize, For he who suffers not can economic accept. For he who suffers not can conquer naught.
EDGAR EVERTSON SALTUS.

AN AMBITIOUS WOMAN.

A NOVEL.

BY EDGAR FAWCETT. Author of "A Gentleman of Leisure," "A Hopeless Case," etc."

XXII.-CONTINUED.

When her guests had all departed, on the afternoon of this same day, Claire slowly walked the spacious drawing-rooms for at least twenty minutes, with her eyes bent upon the floor.

She felt literally hunted down. The end had come; the clock had struck twelve, and her fineries were rags, her coach-and-four was a pumpkin and mice. She had carried it off well until the very last; she was sure of this, and the surety gave her, even now, a bitter pleasure. She had no doubt that the coming of her mother, with imperative demands of support and countenance, would mean a return of all the old taunts and gibes. If Claire's wealthful life of to-day had been destined to continue, this prospect would have opened a less dreary vista; as it was, she foresaw only a dropping back into the former ruts and sloughs of maternal acrimony and intolerance. The history of her past would in a manner repeat itself. There would be poverty again, or something closely akin to it; there would be the mother's unpardoning disapprobation of her child's ill-favored lot. For one marked difference. Herbert would be present, as a fresh, assertive force. And what a miserably adverse force it must prove! To exist with him would be hard enough, now, under any circumstances. But if he felt perpetually the shadow and weight of this second gloomy and heavy personality, what new hostile traits might not his depression, his impatience, his revolt develope?

Claire tried to take a very calm survey of the whole potential consequence. In so doing she regarded the advent of her mother as one factor that consorted with other untoward agencies; the central knot of the tangle would be wrought of several tough and stubborn threads. There could be no unravelling it. 'But the knot could be cut,' she thought silent-

ly continuing her metaphor, as she paced the stately rooms.

It sent a thrill of actual terror to her when sho reflected how the knot could be cut. To the feet that have set their tread on slippery ways, evil can do much downward work by a gentle push. Claire It herself lapsing, now. . . . What if she wrote to Stuart Goldwin a letter very

what it she wrote to Stanri Goldwin a letter very different from the one she had already written him, and which was then hid under the fleecy laces that clad her bosom? What if she told him that she must fly from it all?—the love that she had outraged by cold hypocrisy; the keen if mute reproaches that would be punishment and torture alike; the

by cold bypocrisy; the keen if mute reproaches that would be punishment and torture alike; the thrusts and innuendoes from a tongue whose venom had poisoned her childhood; the tarnish in place of sulendor, the dulmess in place of brilliance, the consensor, the dulmess in place of brilliance, the consensor in the cold in place of ease?

She tried, in a pituable way, to rebuilt temptation by taking the sole means at hand of ending these desperate reflections. In reality she took the most cogent means of lendering temptation more potent.

She tightened its black clutch on her soul; she went upstairs and talked with her mother.

Mrs. Twining had been securely convaloscent some time ago. She had passed through a complicated and dangerous illness; she had given Death odds, yet won with him. She was still subject to those attacks of fatigue which are inevitable with one who has proved victor in so grim a wrestle. But she had once more gained a very firm foothold on that solidity which bounds one known side, at least, of the valley of the shadow. She intended, in a physical sense, to live a good many years longer; her freshening vitality was like that of a fire in a forest, which has stretched an arm of flame across a bare space, at the risk of not reaching it, but in the end has caught a mighty supply of woodland fuel.

Claire found her stretched quite luxuriously on a

Claire found her stretched quite luxuriously on a Claire found her stretched quite luxuriously on a lounge, with a little table beside her, which held the remains of a hearty repast. She had the traditional vast appetite of the recovering invalid. She had devoured enough to have sunk a hearty person of average digestion into abysses of dyspepsia. She had enjoyed her meal very much. It had appeared to her as an earnest of many similar joys.

She promptly began a series of her old characteristic sarcasms and slurs as soon as Claire appeared. Mingled with them was an atmosphere of odious

Mingled with them was an atmosphere of odious congratulation—a sort of verbal patting on the back—which her daughter found even more baneful than her half-latent sneers. She was thoroughly refreshed; her food (mixed with some admirable clarer) had gone straight to the making of bouily repairs. She had never had anything so fine and wholesome in the hospital, though after the patronage of Mrs. Lee she had been supplied with not a few agreeable dainties. The temporary result was that she had become in a great measure her real self.

that she had become in a great measure her real self.

Claire said very little. She did a large amount of listening. She had never known her mother not be without a grudge of some sort. It brought back the past with a piercing vividness, now, while she sat and heard. The vision of a pale, tefined face, lit by soft, dark blue eyes, rose before her, and the memory of many a warton assault, many a surreptitious wound, appealed to her as well. Her father had stood it all so bravely—he had been such a gentleman through it all! She had stood it only with a sturdy, rebellious disapproval through many of the years that preceded his death. She stood it, now, with a weary tranquillity. When she went away from her mother, these were her parting words.

her parting words
"I do not think I shall tell my husband, for some her parting words
"I do not think I shall tell my husband, for some
few davs. that you are here. There are reasons
why I should not. He has some very engrossing
matters to occupy him. But you will be perfectly
comfortable in the meanwhile. Order what you
please. The servants will obey you in every particular. If you should need me, I will come immediately. You have only to send me word. I
shall be at home for the rest of to-day, and all
through the evening."

Claire went into her own private sitting-room
after that. When she had been there a little
while, she had form up her first letter to Goldwin.
When she had been there a little while longer,
she had written the second letter. Having finlisned the last she promptly dispatched it, by messenger, to Goldwin's private address.

Between the bours of ten and eleven that same
evening, the following note from Goldwin was
brought to Claire:

evening, the follo-brought to Claire:

"In some unaccountable way I have lost the "In some unaccountable way I have lost the letter which you seat me to-day. I feel in honor bound to tell you of this lose, after a protracted search through my apartments and numerous inquiries and directions at my club. I cannot sufficiently blame myself for not having at once burned it to a crisp. But I thrust it into my pocket after many readings, with the wish to learn each word by heart before it was finally descroyed. Do not feel necdlessly worried. I shall do my best to recover it, and even if it should be read by other eyes than yours and mine, the fact of your mere initials being signed to it is an immense safeguard.

S. G."

Claire had grown deathly pale as she finished Claire had grown deathly pale as she finished the perusal of this note. She had prepared herself for a night of wretched unrest, but here was a dagger to murder aleep with even surer poignance.

It was past midnight when she I card Hollister go to his apartments. She fancied that his step was a little unsteady. If this was ture, no vinous exhibitation made it so. An excitement of most opposite cause would have explained the altered tread.

posite cause would have explained the altered tread.

A saving hand had interposed between himself and ruin. The chance had been given him or starting again—of meeting all the fiercest of his creditors, and appeasing them. Instead of utter wreck, he had chiefly to think of retrenchment. Perhaps what Claire believed unsteadiness in his step was a brief pause near her own door. But even if animpulse to tell her the good news may for a moment have risen uppermost, there must have swept over him, promptly and sternly, the recollection of a dark and sundering discovery.

Meanwhile Claire, wondering if the lost letter had, through any baleful chance, drifted into his hands, lay pierced by that afrighted remorse which a monition of detected guilt will bring the most hardened criminal, and which of necessity strikes with acuter fang the soul of one yet a neophyte in sin.

Hollister passed downstairs the next morning at a little after nine o'clock. He had obtained some eleep, of which he stood in sad need. The cheerful elasticity of his temperament would have placed him, by natural rebound, well in the sunlight of awakened hope and invigorated energy, and after hours of miserable disquiet he would now have Copyrighted 1883 by Edgar Pawcett. Att rights reserved.